

REMARKS

Claims 66 and 78 have been amended. The amendment finds support, for example, on page 29 of the instant specification. Upon entry of the amendment, claims 66, 70-75, and 78-82 will be pending. No new matter has been added.

The Examiner has indicated that the Office Action is final. Applicant would like to point out the following. In response to the previous Office Action mailed in the above-identified application dated May 10, 2006, Applicants amended independent claim 66 only to the extent that it would recite the limitation that had been previously presented in cancelled dependent claim 68: “wherein said 2'-O-substituent of the 2'-O-substituted nucleoside unit is a 2'-O-methoxyethyl.” The only amendment made in the noted response to the remaining dependent claims (70-75) was a correction of dependency in claim 70. In response to Applicants' amendment and accompanying remarks, the Examiner issued an Office Action dated October 25, 2006, withdrawing some rejections and maintaining a previous 35 USC §103 (a) rejection. Although the Office Action further made a new rejection of all claims in the application under 35 USC §103(a) over a new combination of references and grounds that were not previously relied upon in an Office Action in the application, the Action was made final. Applicant requests that the Examiner reconsider the finality of this office action in light of the above.

II. Rejection for obviousness under 103

Claims 66 and 70-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kole in view of Nyce further in view of Nicklin. As amended claim 66 requires that the oligonucleotide comprise a first region consisting of ten contiguous 2'-deoxy nucleosides flanked by second and third wing regions, each of said second and third wing regions independently consisting of five 2'-O-methoxyethyl nucleosides. Only Nicklin et al. teach chimeric oligonucleotides. Nicklin et al. do not teach a chimeric oligonucleotide with ten 2'-deoxy nucleosides flanked by five 2'-O-methoxyethyl nucleosides on the 5' and 3' end. Further, Nicklin et al. teach a long series of 2'-modifications on page 4 as indicated by the Examiner. Applicants submit that there is no motivation to select the specific 2'-modification now claimed, nor to select the particular chimeric motif now claimed, let alone motivation to combine the two. This would require improper picking and choosing from two

separate lists of parameters. This picking and choosing could only be achieved by the use of impermissible hindsight by the Examiner as there is no motivation by Nicklin et al. to select that single modification from the 2'-modifications listed in the specification and the particular chimeric configuration that is not specifically taught by Nicklin et al. The remaining references do not cure this deficiency. As such, the combination of the teachings of cited references do not render the claims obvious. Therefore, the rejection of claims 66 and dependent claims 70-75 is overcome.

Claims 66, 70-75 and 78-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nyce et al. in view of Nicklin et al. As indicated in part above, Claims 66 and 78 are amended herein to require that the oligonucleotide comprise a first region consisting of ten contiguous 2'-deoxy nucleosides flanked by second and third wing regions, each of said second and third wing regions independently consisting of five 2'-O-methoxyethyl nucleosides. Nyce et al. do not teach chimeric oligonucleotides. As stated above, Nicklin et al. do not teach a chimeric oligonucleotide with ten 2'-deoxy nucleosides flanked by five 2'-O-methoxyethyl nucleosides on the 5' and 3' end. Additionally, for the reasons discussed above, there is no motivation by Nicklin et al. to select that single modification from the 2'-modifications listed in the specification and the particular chimeric configuration that is not specifically taught by Nicklin et al. As such, the combination of the teachings of cited references do not render the claims obvious. Therefore, the rejection of independent claim 66 and dependent claims 70-75 as well as independent claim 78 and its dependents is overcome.

FEEES

The Applicants hereby authorize to Commissioner to charge Deposit Account 50-0252 for a two month extension of time. It is believed that no fee is due with this response. However, if an additional fee is due, the Commissioner is herby authorized to charge the Deposit Account listed above referencing this case number.


CONCLUSIONS

In view of these amendments and remarks, the Applicants believe that the case is now in proper form for allowance. Prompt issuance of a Notice of Allowance is respectfully requested. If the Examiner believes that outstanding issues remain in the case, the Examiner is encouraged to call the undersigned Agent for Applicant listed below to discuss the matter.

Respectfully submitted,

Date

3/26/07



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